

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL JOHN-REIF,

Plaintiff,

v.

RYAN GRAY, et al.,

Defendants.

Case No. 2:24-cv-1346-DJC-CSK

FINDINGS AND RECOMMENDATIONS

(ECF Nos. 1, 2)

Plaintiff Daniel John-Reif is representing himself in this action and seeks leave to proceed in forma pauperis (“IFP”) pursuant to 28 U.S.C. § 1915.<sup>1</sup> (ECF No. 2.) For the reasons that follow, the Court recommends Plaintiff’s IFP application be denied, and the Complaint be dismissed without leave to amend.

**I. MOTION TO PROCEED IN FORMA PAUPERIS**

28 U.S.C. § 1915(a) provides that the court may authorize the commencement, prosecution or defense of any suit without prepayment of fees or security “by a person who submits an affidavit stating the person is “unable to pay such fees or give security therefor.” This affidavit is to include, among other things, a statement of all assets the person possesses. *Id.* The IFP statute does not itself define what constitutes insufficient

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<sup>1</sup> This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. Civ. P. 72, and Local Rule 302(c).

1 assets. See *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015). In *Escobedo*,  
2 the Ninth Circuit stated that an affidavit in support of an IFP application is sufficient  
3 where it alleges that the affiant cannot pay court costs and still afford the necessities of  
4 life. *Id.* “One need not be absolutely destitute to obtain benefits of the in forma pauperis  
5 statute.” *Id.* Nonetheless, a party seeking IFP status must allege poverty “with some  
6 particularity, definiteness and certainty.” *Id.* According to the United States Department  
7 of Health and Human Services, the current poverty guideline for a household of one (not  
8 residing in Alaska or Hawaii) is \$15,060.00. See U.S. Dpt. Health & Human Service  
9 (available at <https://aspe.hhs.gov/poverty-guidelines>).

10 Here, Plaintiff’s IFP application does make the financial showing required by  
11 28 U.S.C. § 1915(a). See ECF No. 2. However, the Court will recommend Plaintiff’s IFP  
12 application be denied because the action is facially frivolous and without merit because it  
13 is duplicative of an earlier pending action in this district. “A district court may deny leave  
14 to proceed in forma pauperis at the outset if it appears from the face of the proposed  
15 complaint that the action is frivolous or without merit.” *Minetti v. Port of Seattle*, 152 F.3d  
16 1113, 1115 (9th Cir. 1998) (quoting *Tripathi v. First Nat. Bank & Tr.*, 821 F.2d 1368, 1370  
17 (9th Cir. 1987)); *see also McGee v. Dep’t of Child Support Servs.*, 584 Fed. App’x. 638  
18 (9th Cir. 2014) (“the district court did not abuse its discretion by denying McGee’s  
19 request to proceed IFP because it appears from the face of the amended complaint that  
20 McGee’s action is frivolous or without merit”); *Smart v. Heinze*, 347 F.2d 114, 116 (9th  
21 Cir. 1965) (“It is the duty of the District Court to examine any application for leave to  
22 proceed in forma pauperis to determine whether the proposed proceeding has merit and  
23 if it appears that the proceeding is without merit, the court is bound to deny a motion  
24 seeking leave to proceed in forma pauperis.”). Because it appears from the face of  
25 Plaintiff’s Complaint that this action is frivolous and is without merit as discussed in more  
26 detail below, the Court recommends denying Plaintiff’s IFP motion.

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1      **II. SCREENING REQUIREMENT**

2            Even if the Court were to grant Plaintiff's IFP application, Plaintiff's Complaint  
3        warrants dismissal pursuant to 28 U.S.C. § 1915(e)'s required pre-answer screening.  
4        Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis  
5        proceeding, and must order dismissal of the case if it is "frivolous or malicious," "fails to  
6        state a claim on which relief may be granted," or "seeks monetary relief against a  
7        defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*,  
8        203 F.3d 1122, 1126-27 (2000) (en banc). A claim is legally frivolous when it lacks an  
9        arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In  
10       reviewing a complaint under this standard, the court accepts as true the factual  
11        allegations contained in the complaint, unless they are clearly baseless or fanciful, and  
12        construes those allegations in the light most favorable to the plaintiff. See *id.* at 326-27;  
13        *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir.  
14        2010), cert. denied, 564 U.S. 1037 (2011).

15            Pleadings by self-represented litigants are liberally construed. *Hebbe v. Pliler*, 627  
16        F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction appropriate even post-*Iqbal*).  
17        However, the court need not accept as true conclusory allegations, unreasonable  
18        inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*, 643 F.2d  
19        618, 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does  
20        not suffice to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007);  
21        *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

22            To state a claim on which relief may be granted, the plaintiff must allege enough  
23        facts "to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. "A  
24        claim has facial plausibility when the plaintiff pleads factual content that allows the court  
25        to draw the reasonable inference that the defendant is liable for the misconduct alleged."  
26        *Iqbal*, 556 U.S. at 678. A pro se litigant is entitled to notice of the deficiencies in the  
27        complaint and an opportunity to amend unless the complaint's deficiencies could not be  
28        cured by amendment. See *Lopez*, 203 F.3d at 1130-31; *Cahill v. Liberty Mut. Ins. Co.*, 80

1 F.3d 336, 339 (9th Cir. 1996).

2 **III. THE COMPLAINT**

3 Plaintiff's Complaint names Defendants "Ryan Gray" a "California state parks and  
4 recreation officer"; "Todd Jones" a "California state parks and officer, Sargent"; "Sabrina  
5 Buis" a "California State Parks and Recreation Officer"; and "Judge Michael Deems" a  
6 "Butte county judge for the State of California." Compl. at 2-3, 7 (ECF No. 1). Plaintiff  
7 alleges that on "April 5th at 436 PM in the city of Oroville," Plaintiff was "illegally pulled  
8 over by state parks and recreation officer Ryan Gray." *Id.* at 7. Plaintiff appears to be  
9 alleging that the traffic stop and subsequent detention were unlawful and violated his  
10 constitutional rights. *Id.* at 8-19. Plaintiff further alleges Defendant Judge Michael Deems  
11 violated Plaintiff's due process rights in the adjudication of his state court action that  
12 Plaintiff identifies as "23CF02390." *Id.* at 19. The Complaint asserts jurisdiction based on  
13 federal question and diversity. *Id.* at 4. As to the basis for federal question jurisdiction,  
14 Plaintiff alleges the following statutes at issue:

15 privacy Act of 1974 (Public law 93-579), an amending law to  
16 title 5 U.S.C. per the provisions of 552a. Title 42 U.S.C.,  
17 section 14141-pattern and practice. Title 18 U.S.C., sec 2425  
federally protected activities. Title 18 U.S.C., sec 241-  
Conspiracy against rights. Title 18, U.S.C., sec 242-dep of  
rights under color of Law.

19 *Id.* For relief, Plaintiff seeks "compensation/restitution/punitive damages, in the amount  
20 of, twenty four million five thousand seventy dollars (\$24,050,071.00)". *Id.* at 23.

21 **IV. DISCUSSION**

22 **A. Duplicative Suits**

23 A district court has broad discretion to control its own docket, including the power  
24 to dismiss duplicative claims. *M.M. v. Lafayette Sch. Dist.*, 681 F.3d 1082, 1091 (9th Cir.  
25 2012). "To determine whether a suit is duplicative, we borrow from the test for claim  
26 preclusion." *Adams v. California Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir.  
27 2007) (*overruled on other grounds by Taylor v. Sturgell*, 553 U.S. 880 (2008)). In  
28 assessing whether a suit is duplicative, the court examines whether the causes of action,

1 the relief sought, and the parties or privies to the action, are the same. *Id.* at 689. To  
2 determine whether the causes of action are the same, courts utilize the “transaction test”  
3 which requires the application of four factors, the last of which is the most important:

4 (1) whether rights or interests established in the prior  
5 judgment would be destroyed or impaired by prosecution of  
6 the second action; (2) whether substantially the same  
7 evidence is presented in the two actions; (3) whether the two  
suits involve infringement of the same right; and (4) whether  
the two suits arise out of the same transactional nucleus of  
facts.

8 *Id.* (citing *Costantini v. Trans World Airlines*, 681 F.2d 1199, 1201-02 (9th Cir. 1982)).

9 On March 29, 2024, Plaintiff initiated an action in this district court, *Daniel John-*  
10 *Reif v. Ryan Gray, et al.*, 2:24-cv-00968-KJM-JDP (E.D. Cal. Mar. 29, 2024) (“*Reif I*”),  
11 that is ongoing and currently pending IFP screening. In *Reif I*, Plaintiff names the same  
12 Defendants as in this action: “Ryan Gray” a “California state parks and recreation  
13 officer”; “Todd Jones” a “California state parks and officer, Sargent”; “Sabrina Buis” a  
14 “California State Parks and Recreation Officer”; and “Michael Deems” a “Judge, Butte  
15 county California.” *Reif I* at Compl. at 2 (ECF No. 1). The instant case and *Reif I* plead  
16 identical factual allegations for the unlawful traffic stop that took place “[o]n April 5th at  
17 436 PM in the city of Oroville” and subsequent detention that Plaintiff seeks to contest.  
18 Compare Compl. at 7-23, with *Reif I* Compl. at 8-24. The instant Complaint and the *Reif I*  
19 Complaint are identical. *Id.*

20 Here, all the factors of the transaction test are satisfied. See *Costantini*, 681 F.2d  
21 at 1201-02. In both actions, the parties are identical, and Defendants are the same  
22 named defendants as in *Reif I*. Compare Compl., with *Reif I*, Compl. Both actions also  
23 seek the same relief. See *Reif I*, Compl at 24 (“I am seeking compensation/restitution/  
24 punitive damages, in the amount of, twenty four million five thousand seventy dollars  
25 (\$24,050,071.00.”). In fact, the complaints in both actions are identical. Compare  
26 Compl., with *Reif I*, Compl. Because both actions arise out of the same incident and  
27 involve substantially the same allegations, the cases arise from the same nucleus of fact  
28 and consequently involve substantially the same evidence. See *Costantini*, 681 F.2d at

1 1201-02. This action is therefore duplicative of *Reif I*, an ongoing earlier case in this  
2 district, and should be dismissed without leave to amend. See *Lathus*, 56 F.4th at 1243.

3 **B. Leave to Amend**

4 In considering whether leave to amend should be granted, the Court finds that the  
5 Complaint is duplicative of an earlier filed, ongoing lawsuit and leave to amend is not  
6 appropriate. *Compare* Compl., *with Reif I* Compl. If Plaintiff seeks to file an amended  
7 complaint, he should do so in *Reif I*, his earlier filed case. Because this case is  
8 duplicative of the case pending in *Reif I*, No. 2:24-cv-00968-KJM-JDP (E.D. Cal.), the  
9 Complaint should therefore be dismissed without leave to amend. See *Lopez*, 203 F.3d  
10 at 1130-31; *Cato v. United States*, 70 F.3d 1103, 1105-06 (9th Cir. 1995).

11 **V. CONCLUSION**

12 Based upon the findings above, it is RECOMMENDED that:

13 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) be DENIED;  
14 2. Plaintiff's Complaint (ECF No. 1) be DISMISSED without leave to amend;  
15 and  
16 3. The Clerk of the Court be directed to CLOSE this case.

17 These findings and recommendations are submitted to the United States District  
18 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
19 14 days after being served with these findings and recommendations, any party may file  
20 written objections with the Court and serve a copy on all parties. This document should  
21 be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any  
22 reply to the objections shall be served on all parties and filed with the Court within 14  
23 days after service of the objections. Failure to file objections within the specified time  
24 may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449,  
25 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

26 Dated: April 2, 2025

  
27 CHI SOO KIM  
28 UNITED STATES MAGISTRATE JUDGE